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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,691	06/26/2001	John Bondo Hansen	6034.200-US	1796

7590

01/21/2003

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EXAMINER

JIANG, SHAOJIA A

ART UNIT

PAPER NUMBER

1617

DATE MAILED: 01/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Applicati n No.

09/891,691

Applicant(s)

HANSEN ET AL.

Examiner

Shaojia A. Jiang

Art Unit

1617

--The MAILING DATE of this c mmunication appears n the c ver sheet with the correspondence address --

THE REPLY FILED 13 January 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.


NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.Claim(s) objected to: none.Claim(s) rejected: 1-12, 19-24, 26 and 27.Claim(s) withdrawn from consideration: 13-18 and 25.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

  
SREENI PADMANABHAN  
PRIMARY EXAMINER

***Advisory Action***

This Office Action is a response to Applicant's amendment and response after FINAL filed on January 13, 2003.

5. Applicant's remarks filed January 13, 2003 with respect to the rejection of claims 1-12, 19-24, and 26-27 made under 35 U.S.C. 103(a) as being unpatentable over Nielsen et al. (US 5889002, WO 9726265, and WO 9903861) in view of Applicant's admission regarding the prior art (see pages 1-2) have been fully considered but are unpersuasive for reasons of record stated in the Final Office Action dated August 13, 2002.

Again, Applicant's arguments have been considered but are not found persuasive. As discussed in the Final Rejection, the active compounds herein are not only known to be potassium channel openers, but also known to be useful in a method of treating various diseases of the central nervous system and the cardiovascular system broadly, e.g., hypertension, heart disease, diabetes and obesity, and decreasing weight gain according to Nielsen et al. Moreover, since the amount of fat-containing food to be consumed or fat intake is well known to be tightly associated with risk of obesity, hypertension, diabetes, and coronary heart disease according to the prior art, one of ordinary skill in the art would have reasonably expected that the active compounds of Nielsen would have beneficially therapeutical effect on reducing the consumption of fat-containing food, absent evidence to the contrary.

Moreover, as discussed in the Final Rejection, it is noted that Applicant admits herein that obesity is tightly associated with the amount of fat-containing food to be consumed or fat intake since Applicant employs an obese Zucker rat as the testing model for the instant claimed method. See page 23 lines 1-15 in the specification. Thus, Applicant clearly acknowledges that obesity is tightly associated with the amount of fat-containing food to be consumed or fat intake as discussed by the examiner above. Therefore, Applicant's own admission supports the examiner's position for the motivation for the instant invention.

Further, as discussed in the Final Rejection, the evidence presented in specification herein is not seen to support the nonobviousness of the instant claimed invention over the prior art.

Therefore, motivation to combine the teachings of the prior art to make the present invention is seen and no impermissible hindsight is seen. The claimed invention is clearly obvious in view of the prior art.

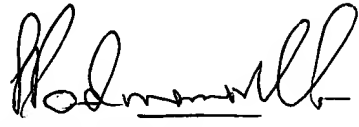
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Jiang, whose telephone number is (703) 305-1008. The examiner can normally be reached on Monday-Friday from 9:00 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreenivasan Padmanabhan, Ph.D., can be reached on (703) 305-1877. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4556.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-1235.

S. A. Jiang, Ph.D.  
Patent Examiner, AU 1617  
January 16, 2003

  
SREENI PADMANABHA  
PRIMARY EXAMINER  
1/18/03